

# **If you are an inmate with a mental health condition, read this notice.**

## **Notice of Proposed Class Action Settlement**

**You may be affected by the settlement of mental health claims made under the Americans with Disabilities Act ("ADA") and under Section 504 of the Rehabilitation Act ("Section 504") in the lawsuit entitled *Braggs v. Dunn*, No. 2:14-cv-00601-MHT-TFM (previously *Dunn v. Dunn*), in the United States District Court for the Middle District of Alabama. This notice summarizes the claims included in this settlement and your rights under the settlement agreement.**

### **1. What issues in the lawsuit have been settled?**

- Whether the ADOC has failed to make appropriate accommodations for people with mental health disabilities in its policies and procedures, in violation of the ADA and Section 504;
- Whether the ADOC has discriminated against inmates with mental health disabilities in the provision of and access to programs, benefits, and services; and
- Whether the ADOC has failed to provide appropriate programming designed for persons with intellectual disabilities in ADOC facilities.

The case involves other claims related to medical and mental health care that have not been settled and that will be decided by the Court.

### **2. Who is affected by this settlement?**

All class members are affected by this settlement. A class member is any current or future inmate in the physical custody of the ADOC who has a disability as defined in the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12102 and 29 U.S.C. § 705(9)(B), relating to or arising from mental disease, illness, or defect.

Under the ADA, disability is defined as, "a physical or mental impairment that substantially limits one or more major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment." 42 U.S.C. § 12102(1). This includes mobility, hearing or vision impairments.

If you have any questions about how this settlement affects you, contact the Class Counsel listed after question No. 6 on the third page of this notice.

### **3. What is the proposed settlement?**

The Plaintiffs and the ADOC have reached a proposed settlement that would release the ADOC from any further liability as to the mental health claims brought under the ADA by the plaintiff class. If the court approves the settlement agreement, you may be prevented in the future from bringing certain ADA mental health claims in federal court, because those claims were resolved by the settlement agreement. You may be required to ask an arbitrator appointed by the court to decide those claims, and you may not be able to appeal the arbitrator's decision to the court.

The settlement agreement requires the ADOC to make numerous changes, all of which are subject to Court approval, including the following:

- **identifying, screening, and tracking inmates with mental health disabilities;**
- **modifying the procedure for requesting disability-based accommodations;**

- **appointing ADA Coordinators for each facility and statewide;**
- **ensuring that inmates with mental health disabilities have equal access to educational and rehabilitative classes and programs;**
- **offering life skills / adaptive behavior classes for inmates with intellectual disabilities;**
- **putting in place procedures for requesting ADA accommodations and for appealing denials of such requests; and**
- **permitting the Alabama Disabilities Advocacy Program (“ADAP”) to monitor ADOC’s compliance with the Settlement Agreement.**

The settlement agreement requires the ADOC to pay fees to the court-approved monitor and attorneys’ fees to the lawyers who represented the class members.

**You have the right to learn more about the settlement agreement.** A copy is available in your prison law library. If there isn’t a library, the settlement agreement will be available in the area where other inmate information is made available in your facility. If you are unable to visit the law library or other area, you may request a copy of the settlement agreement from a correctional officer or class counsel and one will be provided to you.

#### **4. Who represents the inmates affected by the settlement?**

The lawyers representing the inmates (“Class Counsel”) are Maria V. Morris of Southern Poverty Law Center, 400 Washington Avenue, Montgomery, AL 36104 and William Van Der Pol, Jr. of the Alabama Disabilities Advocacy Program, Box 870395, Tuscaloosa, AL 35487.

#### **5. What are your options?**

The United States District Court for the Middle District of Alabama has preliminarily approved the settlement agreement but will hold a hearing to determine whether it is fair, reasonable, and adequate at \_\_\_\_\_ on \_\_\_\_\_, 2017, at the United States Courthouse, One Church Street, Montgomery, Alabama. If you wish to testify, say so on the comment form you submit. The court will choose which inmates will be allowed to testify. The inmates who have been selected to testify will speak to the court by videoconference from an ADOC facility, and will not appear in court in person.

**You have the right to make objections, comments or statements about the Settlement Agreement through the following methods:**

1. You may complete a form called "Response to Proposed Class Action Settlement." If you have not been provided with a copy of the Response form, you may get one from the officer supervising your living area or in your facility's law library. As discussed in the Response form, you must place your completed Response form in the box labeled "ADA Mental Health Settlement Comment Box" located in the area where your facility's inmate request box is located. If you do not have access to the area where the ADA Mental Health Settlement Comment Box is located, you should provide your completed Response form to the following, depending on your housing assignment, who will place your comments in the ADA Mental Health Settlement Comment Box:
  - in Segregation Units, the forms will be collected by members of the Institutional Segregation Review Board during normal rounds;
  - in the Infirmary, Mental Health Units, Stabilization Units, and Death Row, the forms will be collected by the Captain who is responsible for those units;

- in Segregation Units/Holding Units at Work Release Facilities, the forms will be collected by the Warden.
2. You may also mail your completed response form to the following address: Clerk of Court, U.S. District Court for the Middle District of Alabama, P.O. Box 711, Montgomery, AL 36101-0711.
  3. You may use other paper to provide an objection, comment or statement about the Settlement Agreement. If you do so, that paper MUST include the case name and number (Braggs v Dunn, Case No. 2:14-cv-00601-MHT-TFM) at the top of the page. You MUST also include your full legal name, AIS number, all objections, comments or statements you wish to make and the reasons for them, and your signature.
  4. You may submit supporting papers (such as briefs, written evidence, and declarations) to your objection, comment, or statement about the Settlement Agreement. However, do not send originals because those will not be returned to you.

**ANY OBJECTIONS, COMMENTS OR STATEMENTS MUST BE PLACED IN THE ADA MENTAL HEALTH SETTLEMENT COMMENT BOX, PROVIDED TO THE RESPONSIBLE CORRECTIONAL OFFICER OR POST MARKED NO LATER THAN \_\_\_\_\_, 2017, TO BE CONSIDERED.**

**Any objections, comments, or statements that do not comply with the rules and deadlines listed in this Notice will not be heard or considered by the Court.**

**6. How can you get more information?**

If you have any question about any information in this notice or if you want a copy of the proposed settlement agreement, you may write or call the following offices of Class Counsel:

William Van Der Pol, Jr.  
ALABAMA DISABILITIES ADVOCACY PROGRAM  
Box 870395  
Tuscaloosa, Alabama 35487  
(205) 348-4928

ADA Mental Health Settlement Questions  
SOUTHERN POVERTY LAW CENTER  
400 Washington Avenue  
Montgomery, Alabama 36104  
(334) 956-8200